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7 GENERAL ELECTRIC COMPANY
8
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 MARGARET McCUE, as Wrongful Death
Heir, and as Successor-in-Interest to
14 STANLEY McCUE, Deceased; and
STEPHANIE FINCH and JEFFERY
15 McCUE, as Legal Heirs of STANLEY
McCUE, Deceased, JOANN VALLADON,
16 as Wrongful Death Heir and as Successor-
in-Interest to GEORGE VALLADON,
Deceased; and BRAD VALLADON,
17 JOYCE SISSOM, TERRY VALLADON,
as Legal Heirs of GEORGE VALLADON,
18 Deceased, MARGARET LINDSEY, as
Wrongful Death Heir and as Successor-in-
19 Interest to ROBERT LINDSEY, Deceased;
and CYNTHIA LINDSEY TATE and
20 MARCUS LINDSEY, as Legal Heirs of
ROBERT LINDSEY, Deceased

21 Plaintiffs,

22 v.

23 GENERAL ELECTRIC COMPANY,
24 KAISER VENTURES LLC, NEWPORT
NEWS SHIPBUILDING AND DRY
25 DOCK COMPANY, UNITED STATES
STEEL CORPORATION,
26

27 Defendants.
28

CASE NO. CV 08-3181 EMC

**GENERAL ELECTRIC COMPANY'S
ANSWER TO FIRST AMENDED
COMPLAINT FOR SURVIVAL,
WRONGFUL DEATH -- ASBESTOS;
DEMAND FOR JURY TRIAL;
CERTIFICATION OF INTERESTED
ENTITIES**

1 Defendant GENERAL ELECTRIC COMPANY ("GE") hereby answers for itself alone
2 and no others the Complaint For Survival, Wrongful Death (Asbestos), filed by plaintiffs
3 MARGARET LINDSEY, CYNTHIA LINDSEY TATE, and MARCUS LINDSEY ("Plaintiffs")
4 on July 2, 2008, as follows:

5 1. To the extent that paragraph 1 of the complaint consists of allegations of fact as to
6 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
7 allegations of paragraph 1, and on such basis the allegations are denied. To the extent that
8 paragraph 1 of the complaint consists of allegations of fact as to Plaintiffs' decedent, GE lacks
9 sufficient knowledge or information to form a belief as to the truth of the allegations of
10 paragraph 1, and on such basis the allegations are denied.

11 2. To the extent that paragraph 2 of the complaint consists of allegations of fact as to
12 Plaintiffs' decedent, GE lacks sufficient knowledge or information to form a belief as to the truth
13 of the allegations of paragraph 2, and on such basis the allegations are denied. To the extent that
14 paragraph 2 of the complaint consists of allegations of fact as to Plaintiffs, GE lacks sufficient
15 knowledge or information to form a belief as to the truth of the allegations of paragraph 2, and on
16 such basis the allegations are denied.

17 3. To the extent that paragraph 3 of the complaint consists of allegations of fact as to
18 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
19 allegations of paragraph 3, and on such basis the allegations are denied.

20 4. To the extent that paragraph 4 of the complaint consists of allegations of fact as to
21 Plaintiffs' decedent, GE lacks sufficient knowledge or information to form a belief as to the truth
22 of the allegations of paragraph 4, and on such basis the allegations are denied. To the extent that
23 paragraph 4 of the complaint consists of allegations of fact as to other defendants, GE lacks
24 sufficient knowledge or information to form a belief as to the truth of the allegations of
25 paragraph 4, and on such basis the allegations are denied. To the extent that paragraph 4 of the
26 complaint consists of allegations of fact as to GE, GE denies such allegations. GE denies the
27 allegation that each plaintiff claims damages for an asbestos-related disease arising from an
28 identical series of occurrences.

1 5. To the extent that paragraph 5 of the complaint consists of allegations of fact as to
 2 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
 3 truth of the allegations of paragraph 5, and on such basis the allegations are denied. To the
 4 extent that paragraph 5 of the complaint consists of allegations of fact as to other defendants, GE
 5 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
 6 paragraph 5, and on such basis the allegations are denied. To the extent that paragraph 5 of the
 7 complaint consists of allegations of fact as to GE, GE denies such allegations.

8 6. To the extent that paragraph 4 of the complaint consists of allegations of fact as to
 9 Plaintiffs' decedent, GE lacks sufficient knowledge or information to form a belief as to the truth
 10 of the allegations of paragraph 4, and on such basis the allegations are denied. To the extent that
 11 paragraph 4 of the complaint consists of allegations of fact as to other defendants, GE lacks
 12 sufficient knowledge or information to form a belief as to the truth of the allegations of
 13 paragraph 4, and on such basis the allegations are denied. To the extent that paragraph 4 of the
 14 complaint consists of allegations of fact as to GE, GE denies such allegations. GE denies the
 15 allegation that each plaintiff claims damages for an asbestos-related disease arising from an
 16 identical series of occurrences.

17 7. To the extent that paragraph 6 of the complaint consists of allegations of fact as to
 18 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
 19 truth of the allegations of paragraph 6, and on such basis the allegations are denied. To the
 20 extent that paragraph 6 of the complaint consists of allegations of fact as to other defendants, GE
 21 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
 22 paragraph 6, and on such basis the allegations are denied. To the extent that paragraph 6 of the
 23 complaint consists of allegations of fact as to GE, GE denies such allegations. GE denies the
 24 allegation that each plaintiff claims damages for an asbestos-related disease arising from an
 25 identical series of occurrences. GE denies the allegation that each and every allegation of each
 26 plaintiff regarding the nature of their decedent's asbestos-related diseases, the nature of asbestos,
 27 the propensity of asbestos to cause disease, and the criteria for diagnosis of disease are all
 28 identical.

1 8. To the extent that paragraph 8 of the complaint consists of conclusions of law, GE
2 is not required to respond to it. To the extent that paragraph 8 of the complaint consists of
3 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
4 belief as to the truth of the allegations of paragraph 8, and on such basis the allegations are
5 denied.

6 9. To the extent that paragraph 9 of the complaint consists of allegations of fact as to
7 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
8 allegations of paragraph 9, and on such basis the allegations are denied. To the extent that
9 paragraph 9 of the complaint consists of allegations of fact as to other defendants, GE lacks
10 sufficient knowledge or information to form a belief as to the truth of the allegations of
11 paragraph 9, and on such basis the allegations are denied. GE denies that it is a corporation
12 incorporated under the laws of Connecticut. GE admits that its principal place of business is in
13 Connecticut. GE lacks sufficient knowledge or information to form a belief as to the truth of the
14 allegation that this court has original jurisdiction under 25 USC § 1332, and on such basis the
15 allegation is denied.

16 10. To the extent that paragraph 10 of the complaint consists of conclusions of law,
17 GE is not required to respond to it. To the extent that paragraph 10 of the complaint consists of
18 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
19 belief as to the truth of the allegations of paragraph 10, and on such basis the allegations are
20 denied. To the extent that paragraph 10 of the complaint consists of allegations of fact as to
21 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
22 allegations of paragraph 10, and on such basis the allegations are denied. GE lacks sufficient
23 knowledge or information to form a belief as to the truth of Plaintiffs' allegation that the
24 Northern District of California is the proper venue for this case, and on such basis the allegation
25 is denied.

26 11. To the extent that paragraph 11 of the complaint consists of conclusions of law,
27 GE is not required to respond to it. To the extent that paragraph 11 of the complaint consists of
28 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a

1 belief as to the truth of the allegations of paragraph 11, and on such basis the allegations are
2 denied. To the extent that paragraph 11 of the complaint consists of allegations of fact as to
3 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
4 allegations of paragraph 11, and on such basis the allegations are denied. To the extent that
5 paragraph 11 of the complaint consists of allegations of fact as to GE, GE lacks sufficient
6 knowledge or information to form a belief as to the truth of the allegations of paragraph 11, and
7 on such basis the allegations are denied.

8 12. To the extent that paragraph 12 of the complaint consists of allegations of fact as
9 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
10 of the allegations of paragraph 12, and on such basis the allegations are denied. GE admits that,
11 in the past, it manufactured, distributed, supplied and sold certain products which contained
12 some quantity of asbestos and/or had component parts which may have contained some quantity
13 of asbestos, during a time period which may or may not be relevant to this case. Except to the
14 extent admitted, GE denies all other allegations of fact as to GE in paragraph 12 of the
15 complaint.

16 13. To the extent that paragraph 13 of the complaint consists of conclusions of law,
17 GE is not required to respond to it. To the extent that paragraph 13 of the complaint consists of
18 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
19 belief as to the truth of the allegations of paragraph 13, and on such basis the allegations are
20 denied. To the extent that paragraph 13 of the complaint consists of allegations of fact as to
21 Plaintiffs, GE lacks sufficient knowledge or information to form a belief as to the truth of the
22 allegations of paragraph 13, and on such basis the allegations are denied. To the extent that
23 paragraph 13 of the complaint consists of allegations of fact as to GE, GE denies such
24 allegations.

25 14. To the extent that paragraph 14 of the complaint consists of conclusions of law,
26 GE is not required to respond to it. To the extent that paragraph 14 of the complaint consists of
27 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
28 belief as to the truth of the allegations of paragraph 14, and on such basis the allegations are

1 denied. To the extent that paragraph 14 of the complaint consists of allegations of fact as to GE,
2 GE denies such allegations.

3 15. To the extent that paragraph 15 of the complaint consists of allegations of fact as
4 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
5 of the allegations of paragraph 15, and on such basis the allegations are denied. To the extent
6 that paragraph 15 of the complaint consists of allegations of fact as to Plaintiffs, GE lacks
7 sufficient knowledge or information to form a belief as to the truth of the allegations of
8 paragraph 15, and on such basis the allegations are denied. To the extent that paragraph 15 of the
9 complaint consists of allegations of fact as to GE, GE denies such allegations.

10 16. To the extent that paragraph 16 of the complaint consists of conclusions of law,
11 GE is not required to respond to it. To the extent that paragraph 16 of the complaint consists of
12 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
13 belief as to the truth of the allegations of paragraph 16, and on such basis the allegations are
14 denied. To the extent that paragraph 16 of the complaint consists of allegations of fact as to
15 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
16 truth of the allegations of paragraph 16, and on such basis the allegations are denied. To the
17 extent that paragraph 16 of the complaint consists of allegations of fact as to GE, GE denies such
18 allegations.

19 17. To the extent that paragraph 17 of the complaint consists of allegations of fact as
20 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
21 of the allegations of paragraph 17, and on such basis the allegations are denied. To the extent
22 that paragraph 17 of the complaint consists of allegations of fact as to Plaintiffs' decedents, GE
23 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
24 paragraph 17, and on such basis the allegations are denied. To the extent that paragraph 17 of the
25 complaint consists of allegations of fact as to GE, GE denies such allegations.

26 18. GE admits that, over time, inhalation or ingestion of asbestos fibers can
27 cause lung disease and cancer. Except to the extent admitted, GE denies all allegations of
28 paragraph 18.

1 19. To the extent that paragraph 19 of the complaint consists of allegations of fact as
2 to Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
3 truth of the allegations of paragraph 19, and on such basis the allegations are denied.

4 20. To the extent that paragraph 20 of the complaint consists of conclusions of law,
5 GE is not required to respond to it. To the extent that paragraph 20 of the complaint consists of
6 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
7 belief as to the truth of the allegations of paragraph 20, and on such basis the allegations are
8 denied. To the extent that paragraph 20 of the complaint consists of allegations of fact as to
9 Plaintiffs and/or Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a
10 belief as to the truth of the allegations of paragraph 20, and on such basis the allegations are
11 denied. To the extent that paragraph 20 of the complaint consists of allegations of fact as to GE,
12 GE denies such allegations.

13 21. To the extent that paragraph 21 of the complaint consists of conclusions of law,
14 GE is not required to respond to it. To the extent that paragraph 21 of the complaint consists of
15 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
16 belief as to the truth of the allegations of paragraph 21, and on such basis the allegations are
17 denied. To the extent that paragraph 21 of the complaint consists of allegations of fact as to
18 Plaintiffs and/or Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a
19 belief as to the truth of the allegations of paragraph 21, and on such basis the allegations are
20 denied. To the extent that paragraph 21 of the complaint consists of allegations of fact as to GE,
21 GE denies such allegations.

22 22. To the extent that paragraph 22 of the complaint consists of conclusions of law,
23 GE is not required to respond to it. To the extent that paragraph 22 of the complaint consists of
24 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
25 belief as to the truth of the allegations of paragraph 22, and on such basis the allegations are
26 denied. To the extent that paragraph 22 of the complaint consists of allegations of fact as to
27 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
28 truth of the allegations of paragraph 22, and on such basis the allegations are denied. To the

1 extent that paragraph 22 of the complaint consists of allegations of fact as to GE, GE denies such
2 allegations.

3 23. To the extent that paragraph 23 of the complaint consists of conclusions of law,
4 GE is not required to respond to it. To the extent that paragraph 23 of the complaint consists of
5 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
6 belief as to the truth of the allegations of paragraph 23, and on such basis the allegations are
7 denied. To the extent that paragraph 23 of the complaint consists of allegations of fact as to
8 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
9 truth of the allegations of paragraph 23, and on such basis the allegations are denied. To the
10 extent that paragraph 23 of the complaint consists of allegations of fact as to GE, GE denies such
11 allegations.

12 24. To the extent that paragraph 24 of the complaint consists of allegations of fact as
13 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
14 of the allegations of paragraph 24, and on such basis the allegations are denied. To the extent
15 that paragraph 24 of the complaint consists of allegations of fact as to Plaintiffs' decedents, GE
16 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
17 paragraph 24, and on such basis the allegations are denied. To the extent that paragraph 24 of the
18 complaint consists of allegations of fact as to GE, GE denies such allegations.

19 25. To the extent that paragraph 25 of the complaint consists of conclusions of law,
20 GE is not required to respond to it. To the extent that paragraph 25 of the complaint consists of
21 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
22 belief as to the truth of the allegations of paragraph 25, and on such basis the allegations are
23 denied. To the extent that paragraph 25 of the complaint consists of allegations of fact as to GE,
24 GE denies such allegations.

25 26. To the extent that paragraph 26 of the complaint consists of conclusions of law,
26 GE is not required to respond to it. To the extent that paragraph 26 of the complaint consists of
27 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
28 belief as to the truth of the allegations of paragraph 26, and on such basis the allegations are

1 denied. To the extent that paragraph 26 of the complaint consists of allegations of fact as to GE,
2 GE denies such allegations.

3 27. To the extent that paragraph 27 of the complaint consists of conclusions of law,
4 GE is not required to respond to it. To the extent that paragraph 27 of the complaint consists of
5 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
6 belief as to the truth of the allegations of paragraph 27, and on such basis the allegations are
7 denied. To the extent that paragraph 27 of the complaint consists of allegations of fact as to GE,
8 GE denies such allegations.

9 28. GE incorporates by reference as though fully set forth herein paragraphs 1 through
10 27 of this Answer.

11 29. To the extent that paragraph 29 of the complaint consists of allegations of fact as
12 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
13 of the allegations of paragraph 29, and on such basis the allegations are denied. To the extent
14 that paragraph 29 of the complaint consists of allegations of fact as to GE, GE denies such
15 allegations.

16 30. To the extent that paragraph 30 of the complaint consists of conclusions of law,
17 GE is not required to respond to it. To the extent that paragraph 30 of the complaint consists of
18 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
19 belief as to the truth of the allegations of paragraph 30, and on such basis the allegations are
20 denied. To the extent that paragraph 30 of the complaint consists of allegations of fact as to
21 Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a belief as to the
22 truth of the allegations of paragraph 30, and on such basis the allegations are denied. To the
23 extent that paragraph 30 of the complaint consists of allegations of fact as to GE, GE denies such
24 allegations.

25 31. To the extent that paragraph 31 of the complaint consists of allegations of fact as
26 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
27 of the allegations of paragraph 31, and on such basis the allegations are denied. To the extent
28 that paragraph 31 of the complaint consists of allegations of fact as to Plaintiffs' decedents, GE

1 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
2 paragraph 31, and on such basis the allegations are denied. To the extent that paragraph 31 of the
3 complaint consists of allegations of fact as to GE, GE denies such allegations. GE lacks
4 sufficient knowledge or information to respond to the allegation that exposed persons did not
5 know of the substantial danger of using said products and, on that basis, denies it.

6 32. To the extent that paragraph 32 of the complaint consists of allegations of fact as
7 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
8 of the allegations of paragraph 32, and on such basis the allegations are denied. To the extent
9 that paragraph 32 of the complaint consists of allegations of fact as to GE, GE denies such
10 allegations.

11 33. To the extent that paragraph 33 of the complaint consists of allegations of fact
12 as to other defendants, GE lacks sufficient knowledge or information to form a belief as to the
13 truth of the allegations of paragraph 33, and on such basis the allegations are denied. To the
14 extent that paragraph 33 of the complaint consists of allegations of fact as to GE, GE denies such
15 allegations.

16 34. To the extent that paragraph 34 of the complaint consists of allegations of fact as
17 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
18 of the allegations of paragraph 34, and on such basis the allegations are denied. To the extent
19 that paragraph 34 of the complaint consists of allegations of fact as to GE, GE denies such
20 allegations.

21 35. To the extent that paragraph 35 of the complaint consists of allegations of fact as
22 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
23 of the allegations of paragraph 35, and on such basis the allegations are denied. To the extent
24 that paragraph 35 of the complaint consists of allegations of fact as to Plaintiffs' decedents, GE
25 lacks sufficient knowledge or information to form a belief as to the truth of the allegations of
26 paragraph 35, and on such basis the allegations are denied. To the extent that paragraph 35 of the
27 complaint consists of allegations of fact as to GE, GE denies such allegations.

28 36. To the extent that paragraph 36 of the complaint consists of conclusions of law,

1 GE is not required to respond to it. To the extent that paragraph 36 of the complaint consists of
2 allegations of fact as to other defendants, GE lacks sufficient knowledge or information to form a
3 belief as to the truth of the allegations of paragraph 36, and on such basis the allegations are
4 denied. To the extent that paragraph 36 of the complaint consists of allegations of fact as to GE,
5 GE denies such allegations.

6 37. To the extent that paragraph 37 of the complaint consists of allegations of fact as
7 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
8 of the allegations of paragraph 37, and on such basis the allegations are denied. To the extent
9 that paragraph 37 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
10 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
11 allegations of paragraph 37, and on such basis the allegations are denied. To the extent that
12 paragraph 37 of the complaint consists of allegations of fact as to GE, GE denies such
13 allegations.

14 38. To the extent that paragraph 38 of the complaint consists of allegations of fact as
15 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
16 of the allegations of paragraph 38, and on such basis the allegations are denied. To the extent
17 that paragraph 38 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
18 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
19 allegations of paragraph 38, and on such basis the allegations are denied. To the extent that
20 paragraph 38 of the complaint consists of allegations of fact as to GE, GE denies such
21 allegations.

22 39. GE incorporates by reference as though fully set forth herein paragraphs 1 through
23 38 of this Answer.

24 40. To the extent that paragraph 40 of the complaint consists of conclusions of law,
25 GE is not required to respond to it. To the extent that paragraph 40 of the complaint consists of
26 allegations of fact as to Plaintiffs and/or Plaintiffs' decedents, GE lacks sufficient knowledge or
27 information to form a belief as to the truth of the allegations of paragraph 40, and on such basis
28 the allegations are denied.

1 41. To the extent that paragraph 41 of the complaint consists of conclusions of law,
2 GE is not required to respond to it. To the extent that paragraph 41 of the complaint consists of
3 allegations of fact as to Plaintiffs and/or Plaintiffs' decedents, GE lacks sufficient knowledge or
4 information to form a belief as to the truth of the allegations of paragraph 41, and on such basis
5 the allegations are denied.

6 42. To the extent that paragraph 42 of the complaint consists of allegations of fact as
7 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
8 of the allegations of paragraph 42, and on such basis the allegations are denied. To the extent
9 that paragraph 42 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
10 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
11 allegations of paragraph 42, and on such basis the allegations are denied. To the extent that
12 paragraph 42 of the complaint consists of allegations of fact as to GE, GE denies such
13 allegations.

14 43. To the extent that paragraph 43 of the complaint consists of allegations of fact as
15 to Plaintiffs and/or Plaintiffs' decedents, GE lacks sufficient knowledge or information to form a
16 belief as to the truth of the allegations of paragraph 43, and on such basis the allegations are
17 denied.

18 44. To the extent that paragraph 44 of the complaint consists of allegations of fact as
19 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
20 of the allegations of paragraph 44, and on such basis the allegations are denied. To the extent
21 that paragraph 44 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
22 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
23 allegations of paragraph 44, and on such basis the allegations are denied. To the extent that
24 paragraph 44 of the complaint consists of allegations of fact as to GE, GE denies such
25 allegations.

26 45. To the extent that paragraph 45 of the complaint consists of allegations of fact as
27 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
28 of the allegations of paragraph 45, and on such basis the allegations are denied. To the extent

1 that paragraph 45 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
 2 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
 3 allegations of paragraph 45, and on such basis the allegations are denied. To the extent that
 4 paragraph 45 of the complaint consists of allegations of fact as to GE, GE denies such
 5 allegations.

6 46. GE incorporates by reference as though fully set forth herein paragraphs 1 through
 7 45 of this Answer.

8 47. To the extent that paragraph 47 of the complaint consists of allegations of fact as
 9 to other defendants, GE lacks sufficient knowledge or information to form a belief as to the truth
 10 of the allegations of paragraph 47, and on such basis the allegations are denied. To the extent
 11 that paragraph 47 of the complaint consists of allegations of fact as to Plaintiffs and/or Plaintiffs'
 12 decedents, GE lacks sufficient knowledge or information to form a belief as to the truth of the
 13 allegations of paragraph 47, and on such basis the allegations are denied. To the extent that
 14 paragraph 47 of the complaint consists of allegations of fact as to GE, GE denies such
 15 allegations.

16 PRAYER

17 GE further denies that Plaintiffs are entitled to any damages to the extent Plaintiffs seek
 18 damages from GE and denies that Plaintiffs are entitled to any relief from GE to the extent
 19 Plaintiffs seek any relief from GE. Further answering, GE lacks information or knowledge
 20 sufficient to respond to each and every allegation in Plaintiffs' prayer for judgment and, on that
 21 basis, denies them.

22 SEPARATE AND ADDITIONAL AFFIRMATIVE DEFENSES

23 48. By alleging the Separate and Additional Affirmative Defenses set forth below, GE
 24 is not in any way agreeing or conceding that it has the burden of proof or burden of persuasion on
 25 any of these issues.

26 FIRST AFFIRMATIVE DEFENSE

27 49. GE alleges that said complaint and each cause of action therein fails to state facts
 28 sufficient to constitute a cause of action against GE.

1 **SECOND AFFIRMATIVE DEFENSE**

2 50. GE alleges that the causes of action, if any, attempted to be stated and set forth in
3 said complaint are barred by the applicable statutes of limitations, including, but not limited to,
4 the provisions of Code of Civil Procedure Sections 335.1, 338, 340.2. and 340(3).

5 **THIRD AFFIRMATIVE DEFENSE**

6 51. GE alleges that the causes of action, if any, attempted to be stated and set forth in
7 said complaint are barred in whole or in part by the equitable doctrines of waiver, estoppel, and
8 laches.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 52. GE alleges that Plaintiffs' decedents, ALBERT RICE and JOSEPH LUJAN
11 ("Decedents") and others were negligent or otherwise at fault in and about the matters referred to
12 in said complaint, and that such negligence and/or other fault bars or diminishes Plaintiffs'
13 recovery against GE.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 53. GE alleges that Decedents were solely negligent in and about the matters alleged
16 in said complaint and that such negligence on the part of Decedents was the sole proximate cause
17 of the injuries and damages complained of by Plaintiffs, if any there were.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 54. GE alleges that Decedents assumed the risk of the matters referred to in said
20 complaint, that Decedents knew and appreciated the nature of the risk, and that Decedents
21 voluntarily accepted the risk.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 55. GE is informed and believes and thereon alleges that Decedents misused and
24 abused the products referred to in said complaint, and failed to follow instructions, and that such
25 misuse, abuse and failure to follow instructions on the part of Decedents proximately caused and
26 contributed to the injuries and damages complained of in said complaint, if any there were.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 56. GE alleges that if Decedents sustained injuries attributable to the use of any

1 product manufactured, supplied, or distributed by GE, which allegations are expressly denied, the
2 injuries were solely caused by and attributable to the unreasonable, unforeseeable, and
3 inappropriate purpose and improper use which was made of the product.

4 **NINTH AFFIRMATIVE DEFENSE**

5 57. GE alleges that if there was any negligence proximately causing the injuries or
6 damages sustained by Plaintiffs, if any, such negligence, if any, was solely that of the defendants,
7 persons, firms, or entities other than GE.

8 **TENTH AFFIRMATIVE DEFENSE**

9 58. GE alleges that there is no privity between Plaintiffs or Decedents and GE.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 59. GE alleges that it gave no warranties, either express or implied, to Decedents and
12 that neither Decedents nor others ever notified GE of any claims of breach of warranty, if any
13 there were.

14 **TWELFTH AFFIRMATIVE DEFENSE**

15 60. GE alleges that said complaint and each cause of action therein is barred with
16 respect to this answering defendant by the provisions of the Workers' Compensation Act,
17 including but not limited to Sections 3600, 3601, and 5300 of the Labor Code of the State of
18 California.

19 **THIRTEENTH AFFIRMATIVE DEFENSE**

20 61. GE alleges that if there was any negligence proximately causing the injuries or
21 damages, if any, sustained by Decedents, such negligence, if any, is collateral negligence, as that
22 term is used and defined in Restatement 2d Torts, Section 426 and derivative authority.

23 **FOURTEENTH AFFIRMATIVE DEFENSE**

24 62. GE alleges that at the time of the matters referred to in the complaint, Decedents
25 were employed by employers other than GE and were entitled to and received workers'
26 compensation benefits from their employers; and that if there was any negligence proximately
27 causing the injuries and damages sustained by Plaintiffs, if any, such negligence, if any, was that
28 of Decedents' employers.

FIFTEENTH AFFIRMATIVE DEFENSE

63. GE alleges that Plaintiffs' claims, and each of them, and this action, are preempted by federal statutes and regulations governing work place exposure to asbestos.

SIXTEENTH AFFIRMATIVE DEFENSE

64. GE alleges that the products referred to in said complaint, if manufactured by GE at all, were manufactured in strict compliance with United States government specifications, and that the hazards associated with use of the products, if any, were known equally to the government and GE. Boyle v. United Technologies Corp., 487 U.S. 500 (1988).

SEVENTEENTH AFFIRMATIVE DEFENSE

65. GE alleges that to the extent said complaint purports to state a cause of action or basis for recovery under Sindell v. Abbott Laboratories (1990) 26 Cal. 3d 588, it is barred by Plaintiffs' failure to join as defendants the manufacturers of a substantial share of the asbestos products market, to which asbestos products Decedents were allegedly exposed, thereby causing the damages alleged; and, should it prove impossible to identify the manufacturer of the product that allegedly injured Decedents, said purported claim or cause of action is barred by the fault of Plaintiffs and their agents in making identification of the manufacturer impossible.

EIGHTEENTH AFFIRMATIVE DEFENSE

66. GE alleges that, to the extent said complaint purports to state a cause of action or basis for recovery upon lack of identification of the manufacturer of the alleged injury-causing product, it fails to state facts sufficient to constitute a cause of action in that Plaintiffs have asserted claims for relief which, if allowed, would contravene GE's constitutional rights to substantive due process of law, as preserved by the Fourteenth Amendment to the Constitution of the United States and by Article I, Section 7 of the Constitution of the State of California.

NINETEENTH AFFIRMATIVE DEFENSE

67. GE alleges that said complaint, to the extent that it seeks exemplary or punitive damages pursuant to California Civil Code Section 3294, violates GE's right to procedural due process under the Fourteenth Amendment of the United States Constitution, and Article I,

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1 Section 7 of the Constitution of the State of California, and therefore fails to state a cause of
2 action upon which either punitive or exemplary damages can be awarded.

3 TWENTIETH AFFIRMATIVE DEFENSE

4 68. GE alleges that said complaint, to the extent that it seeks punitive or exemplary
5 damages pursuant to California Civil Code Section 3294, violates GE's right to protection from
6 "excessive fines" as provided in the Eighth Amendment of the United States Constitution and
7 Article I, Section 17 of the Constitution of the State of California, and violates GE's right to
8 substantive due process as provided in the Fifth and Fourteenth Amendments of the United States
9 Constitution and the Constitution of the State of California, and therefore fails to state a cause of
10 action supporting the punitive or exemplary damages claimed.

11 TWENTY-FIRST AFFIRMATIVE DEFENSE

12 69. GE alleges that said complaint, and each cause of action therein, fails to state facts
13 sufficient to warrant an award of punitive or exemplary damages against GE.

14 TWENTY-SECOND AFFIRMATIVE DEFENSE

15 70. GE alleges that at all relevant times Decedents' employers were sophisticated
16 users of asbestos-containing products, and that said employers were aware of the dangers, if any,
17 of asbestos-containing products, and that said employers' negligence in providing the products to
18 their employees in a negligent, careless and reckless manner was a superseding intervening cause
19 of Decedents' injuries, if any.

20 TWENTY-THIRD AFFIRMATIVE DEFENSE

21 71. GE alleges that at all relevant times Decedents were sophisticated users of
22 asbestos-containing products, that Decedents were aware, or should have been aware, of the
23 dangers, if any, of asbestos-containing products, and that the sophisticated user doctrine is a
24 complete bar to Plaintiffs' claims against GE as a matter of law. Johnson v. American Standard,
25 Inc., 43 Cal. 4th 56 (Cal. 2008).

26 TWENTY-FOURTH AFFIRMATIVE DEFENSE

27 72. GE alleges that the "peculiar risk" doctrine is not applicable to the causes of
28 action attempted to be stated and set forth against this defendant, because the injuries and

1 damages complained of in the complaint, if any there were, arose in the course and scope of
2 Decedents' employment by an independent contractor.

3 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

4 73. GE alleges that Plaintiffs are barred from recovery in that all products produced
5 by GE were in conformity with the existing state-of-the-art, and as a result, these products were
6 not defective in any manner.

7 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

8 74. GE alleges that the causes of action, if any, attempted to be stated and set forth in
9 said complaint for negligence per se are barred by California Labor Code Section 6304.5, and
10 derivative authority.

11 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

12 75. GE alleges that Plaintiffs and/or Decedents failed to exercise due diligence to
13 mitigate their losses, injuries or damages, if any, and, accordingly, the amount of damages to
14 which Plaintiffs are entitled, if any, should be reduced by the amount of damages which
15 otherwise would have been mitigated.

16 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

17 76. GE alleges that it had no knowledge, either actual or constructive, and by the
18 application of reasonable, developed human skills and foresight had no reason to know of the
19 propensities, if any, of any product allegedly manufactured, supplied, applied and/or sold by GE
20 to cause or contribute to the creation of medical conditions or circumstances involving alleged
21 injuries to the lungs, respiratory and cardiovascular systems, including cancer, mesothelioma, or
22 any other illness or any type whatsoever.

23 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

24 77. GE alleges that the provisions of California Civil Code Section 1431.2 are
25 applicable to the Complaint and each cause of action therein.

26 **THIRTIETH AFFIRMATIVE DEFENSE**

27 78. GE alleges that unforeseen and unforeseeable acts and omissions by others
28 constitute a superseding, intervening cause of Plaintiffs' injuries, if any.

THIRTY-FIRST AFFIRMATIVE DEFENSE

79. GE alleges that each of Plaintiff's claims, and this entire action, are preempted by all applicable federal law relating to railroads, their equipment, and/or alleged injuries and damages arising therefrom, including but not limited to the Locomotive Boiler Inspection Act, 49 U.S.C. sections 20701 et seq.

THIRTY-SECOND AFFIRMATIVE DEFENSE

80. The matters alleged in said complaint are encompassed within and barred by a settlement and release agreement reached by the parties, which operates as a merger and bar against any further litigation on matters raised or potentially raised in connection with the settlement and release.

THIRTY-THIRD AFFIRMATIVE DEFENSE

81. To the extent that Plaintiffs and/or Decedents have reached an accord with GE regarding this litigation and this accord was then properly satisfied, the claims, causes of action, and theories of liability asserted in said complaint are barred by the doctrine of accord and satisfaction.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

82. To the extent that Plaintiffs and/or Decedents released, settled, entered into an accord and satisfaction, or otherwise compromised the claims herein, said claims are barred.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

83. The claims asserted in said complaint have been settled, compromised or otherwise discharged and GE is due a set off.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

84. To the extent that Plaintiffs and/or Decedents previously filed a dismissal in court dismissing with prejudice all of the asserted claims, causes of action, and other theories of liability against GE, the matters alleged in said complaint are barred by retraxit.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

85. Plaintiff's claims herein are barred based on the primary right and res judicata doctrines which prohibit splitting a single cause of action into successive suits, and seeking new

1 recovery for injuries for which the plaintiff was previously compensated by alleged joint
2 tortfeasors.

3 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

4 86. GE alleges that Plaintiffs do not assert any right to relief in respect of or arising
5 out of the same transaction, occurrence, or series of transactions or occurrences, and that no
6 question of law or fact common to all the Plaintiffs will arise in this action, and that therefore
7 Plaintiffs have been improperly joined in one action.

8 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

9 87. GE alleges that the causes of action, if any, attempted to be stated and set forth in
10 said complaint are barred by laches.

11 **FORTIETH AFFIRMATIVE DEFENSE**

12 88. Defendant alleges that the causes of action, if any, attempted to be stated and set
13 forth in said complaint are barred by applicable statutes of repose, including statutes of repose in
14 other states that are applicable to this action pursuant to California Code of Civil Procedure
15 section 361.

16 **PRAYER**

17 WHEREFORE, GE prays that Plaintiffs take nothing by reason of their complaint as to
18 GE and that GE has judgment for its costs of suit and attorneys' fees and for such other and
19 further relief as this Court may deem just and proper.

20
21 DATED: August 6, 2008

SEDGWICK, DETERT, MORAN & ARNOLD LLP

22
23 By: /S/ Derek S. Johnson

24 Derek S. Johnson
25 Attorneys for Defendant
26 GENERAL ELECTRIC COMPANY
27

JURY DEMAND

GE hereby demands a trial by jury of the captioned matter.

DATED: August 6, 2008

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: /S/ Derek S. Johnson

Derek S. Johnson

Attorneys for Defendant

GENERAL ELECTRIC COMPANY

CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil Local Rule 3/16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

DATED: August 6, 2008

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: /S/ Derek S. Johnson

Derek S. Johnson

Attorneys for Defendant

GENERAL ELECTRIC COMPANY